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## BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

FEB 24 2009

KRISTIN K. MAYES, Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP



IN THE MATTER OF:

DOCKET NO. S-20575A-08-0046

SCOTT HUTCHINSON, individually  
and doing business as MARINE 3,

DECISION NO. 70754

Respondents.

OPINION AND ORDER

DATES OF PREHEARING:

April 29, 2008, May 27, 2008,  
August 28, 2008, September 5, 2008

DATE OF HEARING:

September 9, 2008

PLACE OF HEARING:

Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE:

Belinda A. Martin

APPEARANCES:

Michael Salcido, Buckley King, LPA, on  
behalf of Scott Hutchinson and Marine 3,  
Respondents; and

William Black, Staff Attorney, on behalf  
of the Securities Division of the Arizona  
Corporation Commission.

**BY THE COMMISSION:**

On January 25, 2008, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity ("Notice") against Scott Hutchinson and Jane Doe Hutchinson, husband and wife, individually, and doing business as Marine 3 (collectively "Respondents"). The Notice alleged that the Respondents engaged in acts, practices and transactions that constituted violations of the Securities Act of Arizona ("Act"), A.R.S. §§ 44-1841, 44-1842 and 44-1991, in connection with the offer and sale of securities in Arizona. The Respondents were duly served with a copy of the Notice.

On March 28, 2008, Respondents filed an Answer and Request for Hearing ("Answer").

1 At a Procedural Conference held on April 29, 2008, the parties indicated that they wished to  
2 set the matter for hearing.

3 On April 30, 2008, a Procedural Order was issued setting the hearing in this matter for  
4 September 9, 2008, and setting a pre-hearing conference for May 27, 2008.

5 At the May 27, 2008, pre-hearing conference, the parties stated they were attempting to reach  
6 a resolution and requested that another pre-hearing conference be set.

7 At an August 28, 2008, pre-hearing conference the parties indicated they were still attempting  
8 to reach a resolution and requested that another pre-hearing conference be held before the  
9 September 9, 2008, hearing.

10 On September 5, 2008, a pre-hearing conference was held, at which the parties stated they had  
11 been unable to reach an agreement and requested that the hearing move forward.

12 On September 9, 2008, a full public hearing was held before a duly authorized Administrative  
13 Law Judge at the Commission's offices in Phoenix, Arizona. The Division appeared with counsel.  
14 Respondents did not appear for the hearing, but were represented by counsel.

15 On October 7, 2008, the Division filed its Post-Hearing Memorandum.

16 On October 15, 2008, the Respondents filed their Post-Hearing Memorandum.

17 \* \* \* \* \*

18 Having considered the entire record herein and being fully advised in the premises, the  
19 Commission finds, concludes, and orders that:

20 **FINDINGS OF FACT**

21 1. On January 25, 2008, the Division filed the Notice against the Respondents, alleging  
22 multiple violations of the Act in connection with the offer and sale of securities to at least one  
23 investor within Arizona, totaling approximately \$35,000.

24 2. On March 28, 2008, the Respondents filed their Answer in which they admitted that  
25 Scott Hutchinson was not a registered dealer or salesperson in Arizona. Mr. Hutchinson admitted  
26 that he sold stock in Marine 3, but alleged that the shares he sold were his own and therefore exempt  
27 under the Act. The Respondents asserted that there was no fraud involved in the sale of the  
28 securities.

1           3.       At all material times, Mr. Hutchinson was a resident of Arizona.

2           4.       Mr. Hutchinson is an unmarried man.

3           5.       In support of the allegations raised in the Notice, the Division called as witnesses  
4 Erica Ford, the investor witness, and Gary Clapper, an investigator for the Division.

5           6.       Erica Ford testified that she first was introduced to Mr. Hutchinson by a mutual  
6 acquaintance, David Richardson.<sup>1</sup> After three or four meetings,<sup>2</sup> Mr. Richardson and Mr. Hutchinson  
7 met at Ms. Ford's home on July 25, 2005, to discuss her possible investment in a start-up company  
8 called Marine 3.<sup>3</sup> Ms. Ford testified she believed Mr. Richardson had purchased stock in Marine 3  
9 sometime earlier.<sup>4</sup>

10          7.       According to Ms. Ford, Mr. Hutchinson brought with him a laptop computer and a  
11 binder with photographs. Ms. Ford learned that Marine 3 was to be a company that sold boats and  
12 she was shown photographs of Mr. Hutchinson standing beside "Miami Vice-type speed racing  
13 boats."<sup>5</sup> Mr. Hutchinson told her he owned boat sales businesses before,<sup>6</sup> but had lost them in  
14 a divorce.<sup>7</sup>

15          8.       According to Ms. Ford, Mr. Hutchinson told her that any funds she invested would be  
16 used for Marine 3's start-up costs, and later Marine 3 would be going public. Ms. Ford related that  
17 Mr. Hutchinson claimed there was no risk in the investment, and the value of the stock could double  
18 or triple. He asserted that Ms. Ford was guaranteed to receive, at a minimum, a return of her initial  
19 \$35,000 investment in early 2006, after Marine 3 went public.<sup>8</sup>

20          9.       Mr. Hutchinson did not provide to Ms. Ford any financial information regarding  
21 Marine 3.<sup>9</sup>

22          10.       Ms. Ford stated that she did not ask Mr. Hutchinson if he was licensed to sell stocks in  
23

24 \_\_\_\_\_  
<sup>1</sup> Transcript, at 11

25 <sup>2</sup> Transcript, at 33, 36

<sup>3</sup> Transcript, at 11-12

26 <sup>4</sup> Transcript, at 30

<sup>5</sup> Transcript, at 12

27 <sup>6</sup> Transcript, at 13

<sup>7</sup> Transcript, at 22

28 <sup>8</sup> Transcript, 14, 19

<sup>9</sup> Transcript, at 12-13

1 Arizona because she did not know to ask that question.<sup>10</sup>

2 11. At the conclusion of Mr. Hutchinson's presentation, Ms. Ford agreed to invest  
3 \$35,000 in Marine 3 and Mr. Hutchinson issued stock certificate #5 for 600 shares in Marine 3.<sup>11</sup>  
4 Ms. Ford observed Mr. Hutchinson sign the stock certificate as president of Marine 3. The signature  
5 line for Marine 3's secretary was already signed, but Ms. Ford does not know whose signature it is.<sup>12</sup>  
6 The back of the stock certificate given to Ms. Ford was not filled out.<sup>13</sup>

7 12. Mr. Hutchinson suggested what the amount of the investment would be, but Ms. Ford  
8 does not recall his explanation of how the share price was calculated.<sup>14</sup> Ms. Ford testified that  
9 Mr. Hutchinson instructed her to write seven checks payable to him, rather than Marine 3, for \$5,000  
10 each, instead of one check for \$35,000,<sup>15</sup> but she doesn't recall why he requested it to be done that  
11 way.<sup>16</sup>

12 13. Mr. Hutchinson cashed Ms. Ford's checks on July 29, August 1, August 3 and August  
13 5, 2005.<sup>17</sup>

14 14. After some time had passed, Ms. Ford contacted Mr. Hutchinson to ask about the  
15 status of the company and when it might be going public. He explained that Marine 3 had not yet  
16 gone public because of a number of legalities were preventing it.<sup>18</sup>

17 15. During a meeting with Mr. Hutchinson in October 2005, he introduced her to Chris  
18 Jensen, owner of a company called Dream Marketing. Mr. Hutchinson and Mr. Jensen told Ms. Ford  
19 that Marine 3 was going to merge with Dream Marketing and then they would take the company  
20 public. According to Mr. Hutchinson, this merger was causing a delay in the companies going  
21 public. Ms. Ford believed Chris Jensen was the attorney for the companies and was the individual  
22 who was responsible for handling the public offering.<sup>19</sup>

23  
24 <sup>10</sup> Transcript, at 55

25 <sup>11</sup> See Exhibit S-1

26 <sup>12</sup> Transcript, at 16

27 <sup>13</sup> See Exhibit S-1, Transcript, at 15-17.

28 <sup>14</sup> Transcript, at 17

<sup>15</sup> See Exhibit S-2

<sup>16</sup> Transcript, at 19

<sup>17</sup> See Exhibit S-2

<sup>18</sup> Transcript, at 20

<sup>19</sup> Transcript, at 19-21, 33-35.

1        16.    In February or March of 2006, having heard nothing regarding the company's status,  
2 Ms. Ford requested that Mr. Hutchinson return her \$35,000. Mr. Hutchinson initially indicated that  
3 "they were still working on it," but eventually, he stopped responding to her requests.<sup>20</sup>

4        17.    Mr. Hutchinson never informed Ms. Ford that Marine 3's corporate status had been  
5 revoked by the State of Nevada in 2006.<sup>21</sup>

6        18.    Approximately two years later, in January 2008, Ms. Ford received an email from Mr.  
7 Hutchinson, forwarding to her emails between Mr. Hutchinson and "GOLDSTK," who Ms. Ford  
8 believed to be Chris Jensen.<sup>22</sup>

9        19.    In one of the emails, Mr. Hutchinson stated, "I was in contact with Chris Jensen with  
10 Dream Marketing and he told me that the stock that we bought a while back after speaking with him  
11 is finally ready to be issued."<sup>23</sup>

12        20.    Ms. Ford testified that she was confused by this since she had already purchased and  
13 received her stock.<sup>24</sup> She did not respond to Mr. Hutchinson's email.<sup>25</sup>

14        21.    To date, Ms. Ford has not received any return on her investment, or any return of her  
15 principal \$35,000 investment and does not know what Mr. Hutchinson did with her money.<sup>26</sup>

16        22.    Ms. Ford is a single parent,<sup>27</sup> and at the time she made the investment, she was  
17 working as an accountant for Titan Power.<sup>28</sup> Her personal income at the time was approximately  
18 \$61,000.<sup>29</sup>

19        23.    Ms. Ford testified that she would classify herself as a novice investor.<sup>30</sup> She had no  
20 experience in investing in stocks prior to her investment in Marine 3.<sup>31</sup> Her experience in making  
21 investments is limited to experience in buying homes and then attempting to turn them around for  
22

23 <sup>20</sup> Transcript, at 21-22

24 <sup>21</sup> See Exhibit S-5, Findings of Fact No. 32, Transcript, at 46-47

25 <sup>22</sup> See Findings of Fact No. 39, Division Exhibit S-11, Transcript, at 22-29

26 <sup>23</sup> Exhibit S-11

27 <sup>24</sup> Transcript, at 28

28 <sup>25</sup> Transcript, at 29

<sup>26</sup> Transcript, at 48

<sup>27</sup> Transcript, at 11

<sup>28</sup> Transcript, at 39

<sup>29</sup> Transcript, at 30

<sup>30</sup> Transcript, at 54

<sup>31</sup> Transcript, at 13-14

1 resale at a profit. She testified that prior to 2005, she had purchased four homes. Two of the homes  
 2 went into foreclosure, one sold at a loss, and one home did sell for a profit and she put those funds in  
 3 a savings account to use for her oldest son's college funds.<sup>32</sup> It was from this account that she  
 4 withdrew the money to invest in Marine 3.<sup>33</sup>

5 24. On cross-examination, Ms. Ford stated she did not believe there would be a risk in  
 6 making this investment.<sup>34</sup>

7 25. Ms. Ford stated Mr. Hutchinson was aware that, because this money was meant for her  
 8 son's college education, she would need a quick turn around on any investment.<sup>35</sup>

9 26. Ms. Ford testified that she was not in a position to be able to lose the invested funds.<sup>36</sup>

10 27. Gary Clapper also testified for the Division. As a special investigator for the Division,  
 11 Mr. Clapper was assigned to investigate Ms. Ford's complaint against Mr. Hutchinson and Marine 3.

12 28. During his investigation, Mr. Clapper searched through the Division's databases and  
 13 determined that Mr. Hutchinson was not registered securities dealer or salesman. A further search of  
 14 the Division's databases found that Marine 3 stock was not a registered security.<sup>37</sup>

15 29. In researching Marine 3's corporate status, Mr. Clapper found that it was incorporated  
 16 in the State of Nevada on May 5, 2004.<sup>38</sup>

17 30. According to documents received by the Division from Mr. Hutchinson, through a  
 18 special meeting of the directors of Marine 3 held on May 13, 2004, he became director and president  
 19 of Marine 3.<sup>39</sup> The copies of the bylaws provided by Mr. Hutchinson contained blanks, and appeared  
 20 to Mr. Clapper to be generic bylaws. Mr. Clapper testified that Mr. Hutchinson provided no evidence  
 21 that the bylaws were ever adopted by Marine 3's shareholders or board of directors.<sup>40</sup>

22 31. Mr. Clapper further testified that, contrary to the corporate documents received from  
 23 Mr. Hutchinson, the corporate filings made on behalf of Marine 3 with the Nevada Secretary of State

24 <sup>32</sup> Transcript, at 41-46

25 <sup>33</sup> Transcript, at 13, 17, 43-44

26 <sup>34</sup> Transcript, at 40

27 <sup>35</sup> Transcript, at 44-45, 52-53

28 <sup>36</sup> Transcript, at 31

<sup>37</sup> Transcript, at 61-62 and Exhibit S-3

<sup>38</sup> See Exhibit S-4

<sup>39</sup> See Exhibits S-7 and S-8, Transcript, at 71-73

<sup>40</sup> Transcript, at 75

1 demonstrate that Mr. Hutchinson does not maintain any position with Marine 3 or have any authority  
2 to act on behalf of Marine 3.<sup>41</sup>

3 32. Marine 3's corporate status was ultimately revoked by the State of Nevada on  
4 June 1, 2006.<sup>42</sup>

5 33. Mr. Clapper testified that he first contacted Mr. Hutchinson in 2007. Mr. Hutchinson  
6 was living in Louisiana at the time and Mr. Clapper testified that Mr. Hutchinson admitted that he  
7 had sold the stock to Ms. Ford, cashed the checks and then obtained a \$35,000 cashier's check and  
8 sent it to Chris Jensen. Mr. Hutchinson told Mr. Clapper that he had a copy of the cashier's check  
9 and would provide him with a copy of it, but never did so.<sup>43</sup>

10 34. Mr. Clapper testified that during his conversations with him, Mr. Hutchinson never  
11 mentioned that he sold his own shares of Marine 3 stock to Ms. Ford, nor did he provide Mr. Clapper  
12 with any documents indicating that he sold her his own shares of Marine 3.<sup>44</sup>

13 35. Mr. Clapper stated that he asked Mr. Hutchinson why he had Ms. Ford write seven  
14 \$5,000 checks instead of one \$35,000. Mr. Hutchinson told Mr. Clapper that Chris Jensen had  
15 requested that it be done that way.<sup>45</sup>

16 36. Subpoenas were served on Mr. Hutchinson, requiring his appearance before the  
17 Securities Division for an examination under oath and also for the production of documents from  
18 Mr. Hutchinson and Marine 3.<sup>46</sup>

19 37. A date was set for an examination under oath, but Mr. Hutchinson cancelled the  
20 examination a day or two before the scheduled meeting. According to Mr. Clapper this happened one  
21 other time as well.<sup>47</sup>

22 38. Mr. Hutchinson provided Mr. Clapper with copies of the same emails that Ms. Ford  
23 provided. The dates of the emails sent to Ms. Ford were dated after Mr. Clapper's investigation  
24

25 <sup>41</sup> Transcript, at 71-75.

26 <sup>42</sup> See Exhibit S-4.

27 <sup>43</sup> Transcript, at 64-65.

28 <sup>44</sup> Transcript, at 65-66, 77

<sup>45</sup> Transcript, at 66

<sup>46</sup> See Exhibits S-6a-d

<sup>47</sup> Transcript, at 69-70

1 began.<sup>48</sup>

2 39. Mr. Clapper testified that the email correspondence is between Mr. Hutchinson and  
3 Chris Jensen. To confirm that Mr. Hutchinson was corresponding with Chris Jensen, Mr. Clapper  
4 sent a blind email to GOLDSTK and a short time later, Mr. Clapper received a voice mail from  
5 someone identifying himself as Chris Jensen.<sup>49</sup>

6 40. Mr. Clapper spoke to Mr. Jensen, who stated that he had met Mr. Hutchinson in  
7 approximately May 2005 in Phoenix. According to Mr. Clapper, Mr. Jensen told him that he, as  
8 Dream Marketing, was looking to acquire a company and that he spoke with Mr. Hutchinson and  
9 requested documents regarding the company, including financial documents, in order to determine if  
10 acquisition would be feasible. Mr. Jensen told Mr. Clapper that he requested the documents a  
11 number of times, but in January of 2006, when had still not heard anything from Mr. Hutchinson, he  
12 abandoned the idea. Mr. Jensen did not tell Mr. Clapper whether he had received any funds from Mr.  
13 Hutchinson.<sup>50</sup>

14 41. Mr. Clapper stated that Mr. Hutchinson never provided him with any documents  
15 indicating how he had used Ms. Ford's money.<sup>51</sup>

16 42. Mr. Clapper testified that he attempted to contact Mr. Richardson to determine his  
17 possible involvement with Marine 3, but was unable to locate him.<sup>52</sup>

18 43. Based on his experience investigating financial fraud, Mr. Clapper testified that a  
19 transaction at a bank involving over \$10,000 can result in the generation of either a Suspicious  
20 Activity Report or a Cash Transaction Report, "[s]o in investigations of a financial nature, it is not  
21 uncommon to see people keep that amount under that \$10,000 not to have those red flags come up."<sup>53</sup>

22 44. In this case, Mr. Hutchinson cashed the seven checks over a period of four days; two  
23 checks a day on three separate days and the one remaining check on a fourth day.<sup>54</sup>

#### 24 **Unregistered Dealer or Salesman**

25 <sup>48</sup> See Exhibits S-9 and S-10.

26 <sup>49</sup> Transcript, at 78

27 <sup>50</sup> Transcript, at 78-79

28 <sup>51</sup> Transcript, at 79

<sup>52</sup> Transcript, at 80-81

<sup>53</sup> Transcript, at 82

<sup>54</sup> Transcript, 82-85, and Exhibit S-2



1        45. Mr. Hutchinson does not dispute that he offered and sold securities within Arizona  
2 while not registered as a dealer or salesman, in violation of A.R.S. § 44-1842.

3 **Sale of Unregistered Securities**

4        46. Mr. Hutchinson also does not dispute that he sold Marine 3 stock to Ms. Ford.  
5 However, in his Answer, he alleged that he owned the stock he sold to Ms. Ford, and, as such, the  
6 stock he sold was exempt from registration pursuant to A.R.S. § 44-1844(4).

7        47. There is no evidence supporting Mr. Hutchinson's allegation that he owned the stock  
8 sold to Ms. Ford. Therefore, we find that the Marine 3 stock was not exempt from registration  
9 requirements and that Mr. Hutchinson sold unregistered securities within Arizona, in violation of  
10 A.R.S. § 44-1841.

11 **Fraud**

12        48. A.R.S. § 44-1991(A) states as follows:

13            It is a fraudulent practice and unlawful for a person, in connection with a  
14 transaction or transactions within or from this state involving an offer to sell  
15 or buy securities, or a sale or purchase of securities,...directly or indirectly to  
do any of the following:

- 16            1. Employ any device, scheme or artifice to defraud.
- 17            2. Make any untrue statement of material fact, or omit to state any  
18 material fact necessary in order to make the statements made,  
in light of the circumstances under which they were made, not  
misleading.
- 19            3. Engage in any transaction, practice or course of business which  
20 operates or would operate as a fraud or deceit.

21 Additionally, in its Post-Hearing Memorandum, the Division noted:

22            Fraud, including untrue statements of material fact and omissions, in the offer  
23 or sale of securities violates A.R.S. § 44-1991. As it relates to fraud, the  
24 standard of materiality of omitted facts is whether a reasonable investor would  
have wanted to know. *Rose v. Dobras*, 128 Ariz. 209, 214, 624 P.2d 887, 892  
(1981). Further, unlike common law fraud, reliance upon a misrepresentation  
is not an element in fraud involving the purchase or sale of securities. *Id.*<sup>55</sup>

25        49. Mr. Hutchinson represented to Ms. Ford that her investment funds would be used for  
26 Marine 3's start up costs to sell boats. There is no evidence that the funds were used for Marine 3's  
27

28 <sup>55</sup> Securities Division Post-Hearing Memorandum, page 5.

1 start up costs or that Marine 3 ever began selling boats. Mr. Hutchinson presented no evidence of  
2 how Ms. Ford's funds were spent, despite the Division's request for that information.

3 50. Mr. Hutchinson misrepresented that there was no risk in the investment. Ms. Ford's  
4 testimony indicates that he did not explain risks inherent in any investment involving stock, including  
5 the potential for loss of the entire investment. The profits promised by Mr. Hutchinson, along with  
6 the date of repayment of her principal investment, were contingent upon Marine 3 becoming a  
7 publicly held company; Mr. Hutchinson did not inform Ms. Ford of the risks associated with  
8 attempting to take a company public.

9 51. Mr. Hutchinson misrepresented to Ms. Ford that she was guaranteed to receive, at a  
10 minimum, a return of her \$35,000 by early 2006. To date, the Ms. Ford has not received a refund of  
11 her principal investment amount. To be in a position to return Ms. Ford's funds to her by early 2006,  
12 Marine 3 would have had to complete the process of becoming a public company within about six  
13 months from the stock's sale date.

14 52. Mr. Hutchinson requested that Ms. Ford write seven checks payable to Mr.  
15 Hutchinson, rather than Marine 3, each in the amount of \$5,000. Mr. Hutchinson cashed each of the  
16 investments checks on separate days at Ms. Ford's bank, rather than deposit them in a Marine 3  
17 business account. As a result, the cash he received could not be traced.

18 53. By signing the stock certificate as president, Mr. Hutchinson misrepresented to  
19 Ms. Ford that he was president of Marine 3. He failed to disclosed that documents filed with the  
20 Nevada Secretary of State on behalf of Marine 3, do not included any reference to Mr. Hutchinson as  
21 president of Marine 3 with any authority to act on behalf of Marine 3 to issue stock. Further he failed  
22 to disclose that Marine 3's bylaws had not been executed or adopted by its stockholders or board  
23 of directors.

24 54. Given the above, we find that Respondents engaged in fraudulent activity in the offer  
25 and sale of securities in Arizona, in violation of A.R.S. § 44-1991.

26 55. Ms. Ford is currently owed \$35,000.

27 56. The Respondents are jointly and severally liable for the above violations of  
28 A.R.S. §§ 44-1841, 44-1842 and 44-1991.

**CONCLUSIONS OF LAW**

1  
2 1. The Commission has jurisdiction over this matter pursuant to Article XV of the  
3 Arizona Constitution and A.R.S. §§ 44-1801, *et seq.*

4 2. Respondents offered or sold securities within or from Arizona, within the meaning of  
5 A.R.S. §§ 1801(15), 44-1801(21), and 44-1801(26).

6 3. Respondents violated A.R.S. § 44-1841 by offering or selling securities that were  
7 neither registered nor exempt from registration.

8 4. Respondents violated A.R.S. § 44-1842 by offering or selling securities while neither  
9 registered as dealers or salesmen nor exempt from registration.

10 5. Respondents violated A.R.S. §44-1991 by (a) employing a device, scheme, or artifice  
11 to defraud, (b) making untrue statements or misleading omissions of material facts, and (c) engaging  
12 in transactions, practices, or courses of business that operate or would operate as a fraud or deceit, as  
13 enumerated in Findings of Fact Nos. 49 through 53.

14 6. Respondents' conduct is grounds for a cease and desist order pursuant to  
15 A.R.S. § 44-2032.

16 7. Respondents' conduct is grounds for an order of restitution pursuant to  
17 A.R.S. § 44-2032.

18 8. Respondents' conduct is grounds for administrative penalties under A.R.S. § 44-2036.

**ORDER**

19  
20 IT IS THEREFORE ORDERED, pursuant to A.R.S. § 44-2032, that Respondents, and any of  
21 Respondents' agents, employees, successors and assigns, permanently cease and desist from their  
22 actions in violation of A.R.S. §§ 44-1841, 44-1842 and 44-1991.

23 IT IS FURTHER ORDERED that pursuant to the authority granted to the Commission under  
24 A.R.S. § 44-2032, Respondents Scott Hutchinson and Marine 3, jointly and severally, shall make  
25 restitution in an amount not to exceed \$35,000, which restitution shall be made pursuant to Arizona  
26 Administrative Code R14-4-308, subject to legal set-offs by the Respondents and confirmed by the  
27 Director of Securities, said restitution to be made within 60 days of the effective date of this Decision.  
28

1 IT IS FURTHER ORDERED that the restitution ordered hereinabove shall bear interest at the  
2 rate of ten percent per year for the period from the dates of investment to the date of payment of  
3 restitution by the Respondents.

4 IT IS FURTHER ORDERED that all restitution payments ordered hereinabove shall be  
5 deposited into an interest-bearing account(s) if appropriate, until distributions are made.

6 IT IS FURTHER ORDERED that pursuant to the authority granted to the Commission under  
7 A.R.S. § 44-2036, Respondents Scott Hutchinson and Marine 3, jointly and severally, shall pay an  
8 administrative penalty in the amount of \$30,000, payable by either cashier's check or money order  
9 payable to the "State of Arizona," and present it to the Arizona Corporation Commission for deposit  
10 in the general fund for the State of Arizona. Any amount outstanding shall accrue interest at the rate  
11 of 10 percent per annum from the date of this Order until paid in full. The payment obligation for  
12 this administrative penalty shall be subordinate to any restitution obligations ordered herein and shall  
13 become immediately due and payable only after restitution payments have been paid in full or upon  
14 Respondents' default with respect to Respondents' restitution obligations.

15 IT IS FURTHER ORDERED that if Respondents Scott Hutchinson and Marine 3 fail to pay  
16 the administrative penalty ordered hereinabove, any outstanding balance plus interest at the  
17 maximum lawful amount may be deemed in default and shall be immediately due and payable,  
18 without further notice.

19 IT IS FURTHER ORDERED that a bankruptcy filing by any of the Respondents shall be an  
20 act of default. If any Respondent does not comply with this Order, any outstanding balance may be  
21 deemed in default and shall be immediately due and payable without further notice.

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...


1 IT IS FURTHER ORDERED that if any Respondent fails to comply with this Order, the  
2 Commission may bring further legal proceedings against that Respondent, including application to  
3 the Superior Court for an order of contempt.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.  
6

7   
8 CHAIRMAN  COMMISSIONER  
9  COMMISSIONER  COMMISSIONER  
10 COMMISSIONER COMMISSIONER COMMISSIONER  
11

12 IN WITNESS WHEREOF, I, MICHAEL P. KEARNS, Interim  
13 Executive Director of the Arizona Corporation Commission,  
14 have hereunto set my hand and caused the official seal of the  
15 Commission to be affixed at the Capitol, in the City of Phoenix,  
16 this 23<sup>RD</sup> day of FEBRUARY, 2009.

17   
18 MICHAEL P. KEARNS  
19 INTERIM EXECUTIVE DIRECTOR

20 DISSENT \_\_\_\_\_

21 DISSENT \_\_\_\_\_  
22  
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26  
27  
28

1 SERVICE LIST FOR:

SCOTT HUTCHINSON, INDIVIDUALLY  
AND DOING BUSINESS AS MARINE 3

2  
3 DOCKET NO.:

S-20575A-08-0046

4 Michael Salcido, Esq.  
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